

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

AMY LYNN LLOYD,

Defendant.
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**REPORT AND
RECOMMENDATION**

06 CV 6247 (RJD)

On November 21, 2006, the United States of America commenced this action against defendant Amy Lynn Lloyd, pursuant to 28 U.S.C. § 1345, seeking to collect monies owed under a student loan taken out in 1988. On January 30, 2007, after defendant failed to appear or file an answer, a default judgment was entered against defendant in the amount of \$6,703.95.

By letter dated March 30, 2007, defendant filed a motion to vacate the default judgment, which was granted by the district court on August 20, 2007. An initial conference was set before this Court for September 18, 2007 and notice was mailed to the defendant. When defendant failed to appear, this Court issued an Order dated September 26, 2007 ("September Order"), in which the Court set a second conference for October 12, 2007 and indicated that if defendant again failed to appear, the Court would recommend reinstatement of the default. Prior to the October 12th conference, the September Order sent to defendant was returned to the Court as undeliverable. Accordingly, at the October 12th conference, the Court set a third and final conference for October 30, 2007.¹ Defendant again failed to appear at the October 30th

¹The Court notes that it mailed three copies of the notice to the defendant, informing her of the date of this final conference. Copies were sent to the address listed on the docket sheet, to

conference, and the Court Ordered plaintiff to move for reinstatement of the default and default judgment by December 28, 2007.

On November 12, 2007, plaintiff timely moved for an Order restoring the default judgment previously entered against defendant. Based on the foregoing, the Court respectfully recommends that plaintiff's motion to reinstate the default be granted. Although Ms. Lloyd indicated her intention to defend in this litigation when she submitted her motion to vacate the default, she has failed to keep the Court apprised of her whereabouts. She has not contacted either plaintiff's counsel or the Court with her current address nor has she responded to any of the Court's Orders.

Accordingly, the Court respectfully recommends that the judgment entered on January 30, 2007 against defendant Amy Lynn Lloyd in the amount of \$6,703.95 be restored. Plaintiff shall give credit for two payments made by Ms. Lloyd since January 30, 2007 in the total amount of \$200.00. The judgment balance plus interest calculated at the legal rate in effect on January 30, 2007 shall remain due and owing, and plaintiff shall have execution therefor.

Any objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned, within ten (10) days of receipt of this Report. Failure to file objections within the specified time waives the right to appeal the District Court's order. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b); Small v. Secretary of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

the address she provided in her motion to vacate the default judgment, and to an address found through the Court's independent research; all were returned as undeliverable. (See Docket Entry No. 20, dated November 2, 2007).

The Clerk is directed to send copies of this Report and Recommendation to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
January 24, 2008

A handwritten signature in black ink, reading "Cheryl Pollak". The signature is written in a cursive, flowing style.

Cheryl L. Pollak
United States Magistrate Judge